

subchapter C of the chapter, or a special permit or approval issued under this subchapter applicable to the transportation of hazardous materials or the causing of them to be transported or shipped is liable for a civil penalty of not more than \$75,000 for each violation, except the maximum civil penalty is \$175,000 if the violation results in death, serious illness or severe injury to any person or substantial destruction of property. There is no minimum civil penalty, except for a minimum civil penalty of \$450 for violations relating to training. When the violation is a continuing one, each day of the violation constitutes a separate offense.

(b) A person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued thereunder, this subchapter, subchapter C of the chapter, or a special permit or approval issued under this subchapter applicable to the design, manufacture, fabrication, inspection, marking, maintenance, reconditioning, repair or testing of a package, container, or packaging component which is represented, marked, certified, or sold by that person as qualified for use in the transportation of hazardous materials in commerce is liable for a civil penalty of not more than \$75,000 for each violation, except the maximum civil penalty is \$175,000 if the violation results in death, serious illness or severe injury to any person or substantial destruction of property. There is no minimum civil penalty, except for a minimum civil penalty of \$450 for violations relating to training.

[78 FR 22800, Apr. 17, 2013]

#### § 107.331 Assessment considerations.

After finding a knowing violation under this subpart, the Office of Chief Counsel assesses a civil penalty taking the following into account:

- (a) The nature and circumstances of the violation;
- (b) The extent and gravity of the violation;
- (c) The degree of the respondent's culpability;
- (d) The respondent's prior violations;
- (e) The respondent's ability to pay;
- (f) The effect on the respondent's ability to continue in business; and

(g) Such other matters as justice may require.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107-30, 58 FR 50500, Sept. 27, 1993; Amdt. 107-38, 61 FR 21100, May 9, 1996]

#### CRIMINAL PENALTIES

#### § 107.333 Criminal penalties generally.

A person who knowingly violates § 171.2(l) of this title or willfully or recklessly violates a requirement of the Federal hazardous material transportation law or a regulation, order, special permit, or approval issued thereunder shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, except the maximum amount of imprisonment shall be 10 years in any case in which the violation involves the release of a hazardous material which results in death or bodily injury to any person.

[71 FR 8487, Feb. 17, 2006]

#### § 107.335 Referral for prosecution.

If the Associate Administrator becomes aware of a possible willful violation of the Federal hazardous material transportation law, this subchapter, subchapter C of this chapter, or any special permit, or order issued thereunder, for which the Associate Administrator exercises enforcement responsibility, it shall report it to the Office of the Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590-0001. If appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107-22, 55 FR 39978, Oct. 1, 1990; Amdt. 107-24, 56 FR 8621, Feb. 28, 1991; 56 FR 15510, Apr. 17, 1991; Amdt. 107-32, 59 FR 49131, Sept. 26, 1994; Amdt. 107-35, 60 FR 49108, Sept. 21, 1995; 66 FR 45377, Aug. 28, 2001]

#### § 107.336 Limitation on fines and penalties.

If a State or political subdivision or Indian tribe assesses any fine or penalty determined by the Secretary to be appropriate for a violation concerning a subject listed in § 107.202(a), no additional fine or penalty may be assessed